

SC543. SUBCHAPTER 543
PAY UNDER TITLE 38--SPECIAL PAY
FOR PHYSICIANS AND DENTISTS
TABLE OF CONTENTS

<u>SECTIONS</u>	<u>Page</u>
SC543.1. PURPOSE	543-2
SC543.2. COVERAGE	543-2
SC543.3. SPECIAL PAY	543-3
SC543.4. POLICY	543-4
SC543.5. AUTHORITIES	543-5
SC543.6. SERVICE AGREEMENT	543-7
SC543.7. ADMINISTRATION OF SPECIAL PAY	543-8
SC543.8. SPECIAL PAY FACTORS	543-12

SC543. SUBCHAPTER 543
PAY UNDER TITLE 38--SPECIAL PAY
FOR PHYSICIANS AND DENTISTS

- References:
- (a) Title 5, United States Code
 - (b) Title 38, United States Code
 - (c) Delegation Agreement Between the Office of Personnel Management and the Department of Defense, November 30, 1993, and December 20, 1993, respectively, concerning the use of certain personnel authorities for healthcare occupations
 - (d) [DoD Directive 1400.25](#), "DoD Civilian Personnel Management System," November 25, 1996
 - (e) Title 3, United States Code
 - (f) Title 32, United States Code

SC543.1. PURPOSE

This subchapter provides rules for payment of special pay for physicians and dentists under 5 U.S.C. 5471 (reference (a)) and Chapter 74, subchapter III of 38 U.S.C. (reference (b)) as authorized by 5 U.S.C. 110 (reference (a)) and the Delegation Agreement between the Office of Personnel Management (OPM) and the Department of Defense (reference (c)).

SC543.2. COVERAGE

SC543.2.1. This subchapter covers a civilian physician or dentist at GS-15 and below (or at an equivalent grade level in another system; e.g., the title 38, U.S.C., rank-in-person system) who:

SC543.2.1.1. Provides direct patient care services or service that is incident to patient care; and

SC543.2.1.2. Serves in a position that has not been excluded from receipt of special pay by statute, by the provisions of the Delegation Agreement (reference c)), or by the Secretary of a Military Department, or his or her designee as provided in paragraph SC543.5.3., below. Such exclusions will be reviewed on an annual basis.

SC543.2.2. The following physicians and dentists may not receive special pay:

SC543.2.2.1. A physician or dentist currently serving in the Armed Forces of the United States.

SC543.2.2.2. A physician or dentist who is serving in an internship or residency training program.

SC543.2.2.3. A physician or dentist who is a reemployed annuitant.

SC543.2.2.4. A physician or dentist in the Senior Executive Service, in a senior-level scientific or professional position, or in another senior-level system.

SC543.2.2.5. A physician who receives a physicians comparability allowance under 5 U.S.C. 5948 (reference (a)).

SC543.2.2.6. A physician or dentist who is covered by an intermittent work schedule or who is employed on a regular basis for less than 20 hours in a pay period.

SC543.2.3. A former member of a Uniformed Service who retired or resigned from the Service within 12 calendar months is eligible to be considered for special pay on a case-by-case basis with the approval of the Secretary of a Military Department, or his or her designee, but only if the individual is the only qualified candidate or is EMINENTLY well-qualified for the position.

SC543.3. SPECIAL PAY

Special pay for physicians and dentists means pay authorized under Subchapter III of Chapter 74 of 38 U.S.C. (reference (b)), to recruit and retain highly qualified physicians and dentists. Special pay factors for a physician or a dentist includes pay for:

SC543.3.1. Full-time status;

SC543.3.2. Length of service;

SC543.3.3. Certification in a scarce medical or dental specialty (scarce specialty pay);

SC543.3.4. Executive responsibilities (which is not authorized at this time);

SC543.3.5. Specialty or first board certification and subspecialty or secondary board certification (board certification pay);

SC543.3.6. Exceptional qualifications within a specialty; and,

SC543.3.7. Working in a specific geographic location where extraordinary staffing difficulties exist (geographic location pay).

Special pay may be paid only upon the execution of, and for the duration of, a written agreement entered into by the physician or dentist as provided under 38 U.S.C. 7432 (reference (b)).

SC543.4. POLICY

It is DoD policy under DoD Directive 1400.25 (reference (d)) that:

SC543.4.1. Special pay may be paid in the Department of Defense to recruit and retain highly qualified physicians and dentists. Payment of special pay is optional within each Military Department. However, if a determination is made by the Secretary of a Military Department, or his or her designee, that a factor of special pay will be paid to a position or a specific category of positions, other physicians or dentists performing the same or similar duties in the Military Department must be CONSIDERED for such payment.

SC543.4.2. Physicians and dentists will be compensated at levels that are reasonably comparable with the levels of total pay of physicians and dentists employed in comparable positions in other Federal healthcare facilities and in the private and non-Federal sectors.

SC543.5. AUTHORITIES

SC543.5.1. The Deputy Assistant Secretary of Defense for Health Services Operations and Readiness (DASD(HSO&R)), with no further delegation, may:

SC543.5.1.1. Establish nationwide scarce medical or dental specialty ranges for scarce specialty pay and review such rates on an annual basis;

SC543.5.1.2. Establish and review annually the criteria for the payment of authorities implemented under paragraphs SC543.5.2., SC543.5.3., SC543.5.4., and

SC543.5.5., below, based on changing needs and to ensure consistent application throughout the Department of Defense;

SC543.5.1.3. Designate a specialty or subspecialty for payment of board certification pay; and,

SC543.5.1.4. Determine record-keeping and reporting requirements and designate levels of responsibility necessary to ensure that the Department's use of the special pay authority can be evaluated as required by the Delegation Agreement (reference (c)).

SC543.5.2. The Secretary of a Military Department, based on the criteria established under paragraph SC543.5.1.2., above, but without further delegation, may approve a request for special pay when the proposed total compensation would exceed Executive Level I.

SC543.5.3. The Secretary of a Military Department, based on criteria established under paragraph SC543.5.1.2., above, may:

SC543.5.3.1. Determine the category(ies) of physicians or dentists or positions that may be considered for payment of special pay within the Military Department;

SC543.5.3.2. Except as provided in paragraph SC543.5.1., above, approve a request for special pay for an individual physician or dentist, including a request for special pay for exceptional qualifications or a request for special pay for a military member who retired or resigned within 12 calendar months;

SC543.5.3.3. Establish facility-specific ranges for payment of scarce specialty pay and review such ranges annually. (Ranges established under this provision are not limited to those established under paragraph SC543.5.1.1., above. This flexibility is intended to assist in responding to SEVERE recruitment and retention problems at a specific facility when geographic location pay alone cannot resolve the staffing problem.);

SC543.5.3.4. Establish geographic location pay for a specific category(ies) of physician or dentist in a specific location;

SC543.5.3.5. Waive repayment of the prorated amount of special pay for failure to complete a service agreement for an individual within the Military Department;

SC543.5.3.6. Approve a request for special pay that results in an increase in per annum special pay of more than 50 percent; and,

SC543.5.3.7. Redesignate any of the authorities covered by this paragraph to the Surgeon General of the Military Department or to an individual with comparable operation authority. The authorities may not be further delegated.

SC543.5.4. The Secretary of a Military Department, based on criteria established under paragraph SC543.5.1.2., above, may:

SC543.5.4.1. Recommend payment of all factors of special pay for an individual physician or dentist;

SC543.5.4.2. Renew a service agreement approving special pay for a physician or dentist, except an agreement that increases the per annum special pay received by more than 50 percent or an agreement that results in total compensation exceeding Executive Level I;

SC543.5.4.3. Recommend establishment of facility-specific ranges for payment of scarce specialty pay as provided in paragraph SC543.5.3.3., above;

SC543.5.4.4. Recommend establishment of geographic location pay for a specific category(ies) of physician or dentist when there is no other DoD medical treatment facility(ies) in the same geographic area, and review such rates when their authorizations expire;

SC543.5.4.5. Exclude a physician or dentist from receiving geographic location pay; and,

SC543.5.4.6. Redesignate any of the authorities covered by this paragraph to the Surgeon General of the Military Department or the commander of a medical or dental treatment facility. The authorities may not be further delegated.

SC543.5.5. The lead agent in a military health services region with no further delegation will coordinate the establishment of geographic location pay for a specific category of physician or dentist when there is more than one DoD medical or dental treatment facility in the same geographic area and will coordinate the review of such rates when the authorizations expire. Such coordination shall include a review by the Secretary of the Military Department, or his or her designee, as provided in paragraph SC543.5.3.4., above.

SC543.6. SERVICE AGREEMENT

A signed agreement containing the following provisions is required before a physician or dentist may receive special pay. (The DASD(HSO&R) will prescribe the service agreement.):

SC543.6.1. A service agreement will be for a minimum of 1 year but may be for no more than 4 years. A physician or dentist may negotiate the specific length of an agreement, but a service agreement must be for a whole year(s).

SC543.6.2. A service agreement represents a physician's or dentist's commitment to remain in a position for a specified period of time. It is not a management contract and does not prevent or limit the management's right to take corrective or disciplinary actions.

SC543.6.3. The amount of special pay identified in the service agreement may be adjusted upward to reflect an increase in a physician's or dentist's length of service as appropriate under section SC543.8., below.

SC543.6.4. A service agreement specifies that, except as provided in paragraphs SC543.6.5. and SC543.6.6., below, a physician or dentist who voluntarily or because of misconduct fails to complete a period of service specified in an agreement must refund the amount of special pay received under the agreement for that year equal to:

SC543.6.4.1. 100 percent of the amount of special pay received during the first year of service for failure to complete the agreement during that year;

SC543.6.4.2. 75 percent of the amount of special pay received during the second year of service for failure to complete the agreement during that year;

SC543.6.4.3. 50 percent of the amount of special pay received during the third year of service for failure to complete the agreement during that year; and,

SC543.6.4.4. 25 percent of the amount of special pay received during the fourth year of service for failure to complete the agreement during that year.

SC543.6.5.

SC543.6.5.1. The Secretary of a Military Department, or his or her designee,

as provided in paragraph SC543.5.3.5., above, may waive the requirement to repay all or part of any amount of special pay in cases where failure to complete a service agreement is determined to be beyond the control of the physician or dentist. (The DASD(HSO&R) will prescribe the procedures for requesting and approving waiver of repayment of special pay.)

SC543.6.5.2. A physician or dentist who fails to complete a service contract because of any of the following circumstances is not required to repay any amount of special pay received:

SC543.6.5.2.1. In the event of a reduction in force;

SC543.6.5.2.2. Transfer of function; or,

SC543.6.5.2.3. Directed reassignment in connection with a reorganization announced in writing by the employing Military Department.

SC543.6.6. The execution of a new service agreement initiated by the Military Department employing a physician or dentist will supersede any previous service agreement. The physician or dentist will be responsible for the length of service specified in the new agreement. A physician or dentist must fulfill at least one full year of service under an agreement before the Military Department may initiate a superseding service agreement.

SC543.6.7. A physician or dentist may sign a service agreement only after the authorized approving official has approved the payment of and the amount of special pay.

SC543.6.8. To reduce a repayment liability, a physician or dentist may stop receiving special pay when the employee knows he or she will otherwise breach the agreement.

SC543.7. ADMINISTRATION OF SPECIAL PAY

SC543.7.1. Establishment of special pay amounts:

SC543.7.1.1. A special pay amount for a physician or dentist will be established on an individual basis according to the special pay factors contained in section SC543.8., below, and recorded as provided by the DASD(HSO&R);

SC543.7.1.2. A request for special pay, the amount of which would cause the total compensation a doctor or dentist receives to exceed Executive Level I, requires the review and approval as provided in paragraph SC543.5.2., above. The review of such a request will be solely for the purpose of determining whether the amount of special pay proposed is necessary to recruit or retain the individual physician;

SC543.7.1.3. A request for special pay that results in an increase in per annum special pay of more than 50 percent or a decrease in per annum special pay of more than 25 percent from the previous per annum special pay amount must be approved as provided in paragraph SC543.5.3., above;

SC543.7.1.4. A request for special pay, regardless of total amount, that includes pay for exceptional qualifications within a specialty requires review and approval as provided in paragraph SC543.5.3., above; and,

SC543.7.1.5. The amount of special pay paid to a physician or dentist may be changed, without affecting the period of service obligation, when a physician completes the required number of years to move to a higher length-of-service special pay rate.

SC543.7.2. Special pay is effective at the beginning of the pay period immediately following its approval by the designated approving official or on a later date if so specified by the special pay service agreement; e.g., coincident with the entrance-on-duty of a new employee. Special pay may not be approved on a retroactive basis.

SC543.7.3. Special pay, unless terminated as provided in paragraph SC543.7.4., below, is paid on a biweekly basis, calculated by dividing the approved annual special pay amount by the number of days in the year (365 or 366, as appropriate) covered by the service agreement and multiplying the result, rounded to the nearest whole cent--counting one-half cent and over as a whole cent, by 14 (the number of days in a biweekly pay period). Any remaining days, those that do not comprise a 14-day period, will be paid during the last pay period covered by the service agreement.

When a physician or dentist is on leave without pay (LWOP) for any part of a day, special pay is not payable for that day. If a physician or dentist is on LWOP on the days both before and after a nonworkday(s), he or she may not receive special pay for the nonworkday(s).

SC543.7.4. Special pay continues for the period specified in the service agreement and terminates on the last day specified in the service agreement, unless one or more of the following conditions results in an earlier termination:

SC543.7.4.1. There is a significant change in the duties and responsibilities of the affected physician or dentist; e.g., promotion, demotion, etc.;

SC543.7.4.2. The physician or dentist separates from the employing organization through reassignment (other than a reassignment to a successor position resulting from a realignment or reorganization), transfer, resignation, retirement, etc.;

SC543.7.4.3. The physician or dentist voluntarily changes his or her tour of duty to reduce or increase the basic work schedule;

SC543.7.4.4. The physician or dentist moves into an excluded category; or

SC543.7.4.5. A superseding service agreement is executed.

SC543.7.5. Special pay may be reauthorized when a service agreement expires. If special pay is reauthorized, the basis for each special pay factor amount must be reviewed and adjusted, as appropriate.

SC543.7.6. A part-time physician or dentist who works at least 20 hours a pay period may be eligible to be considered for special pay. Special pay amounts for each factor described in section SC543.8., below, will be prorated for part-time service except for the full-time status factor. Prorated amounts will be based on the number of hours in the physician's or dentist's regular tour of duty but may not exceed 75 percent of the amount payable to a full-time physician or dentist.

SC543.7.7. A physician or dentist who receives special pay for which he or she is not eligible is liable for repayment of such pay.

SC543.7.8. Relationship to basic pay:

SC543.7.8.1. Special pay is considered to be basic pay for life insurance purposes under Chapter 87 of 5 U.S.C. (reference (a)) and the Thrift Savings Plan. It is also considered basic pay for retirement purposes under OPM regulations;

SC543.7.8.2. Special pay is included in any continuation of pay under 5 U.S.C. 8118 (reference (a)) in connection with a work-related injury; and,

SC543.7.8.3. Special pay, a premium for extraordinary services, is not considered basic pay for other pay administration purposes including severance pay, lump-sum payments for annual leave, calculation of recruitment and relocation bonuses and retention allowances, worker injury compensation, etc.

SC543.7.9. Relationship to other pay under 5 U.S.C. (reference (a)):

SC543.7.9.1. A physician or dentist who receives special pay may not receive any form of premium pay under Chapter 55 of 5 U.S.C. (reference (a));

SC543.7.9.2. A physician who receives special pay is not eligible to receive a physicians comparability allowance under 5 U.S.C. 5948 (reference (a)); and

SC543.7.9.3. A physician or dentist who receives special pay may be authorized to receive other forms of discretionary pay under 5 U.S.C. (reference (a)), including recruitment and relocation bonuses and retention allowances, supervisory differentials, etc.

The sum of all pay, allowances, differentials, bonuses, awards, or other similar payments authorized and paid under title 5 U.S.C. (reference (a)), to a physician or dentist may not exceed Executive Level I in any calendar year, as specified in 5 U.S.C. 5307 (reference (a)).

The sum of all pay, allowances, differentials, bonuses, awards, other similar payments, and special pay under 38 U.S.C. (reference (b)), may not exceed Executive Level I in any calendar year unless approved by the Secretary of a Military Department.

SC543.7.10. The total compensation a physician or dentist receives, including special pay received under 38 U.S.C. (reference (b)), any payments authorized under 5 U.S.C. (reference (a)), military retired pay under 32 U.S.C. (reference (f)), and any other pay received from an entity of the Federal Government including awards may not exceed the amount of annual compensation (excluding expenses) specified in 3 U.S.C. 102 (reference (e)).

SC543.7.11. A full-time dentist or physician receiving special pay is considered to be in a duty status 24 hours a day, 7 days a week. Tours of duty of 80 hours per pay period, plus any additional hours of work required, will be specified whenever possible.

SC543.7.12. A physician or dentist receiving special pay continues to be covered

by the leave provisions of Chapter 63 of 5 U.S.C. (reference (a)). Leave will be charged against the physician's or dentist's regularly scheduled nonovertime biweekly tour of duty. Special pay continues during periods of annual leave, sick leave, court leave, military leave, or excused absence.

SC543.8. SPECIAL PAY FACTORS

The following special pay factors are payable, as appropriate, to a physician or dentist occupying a position for which special pay has been approved (When determining dollar amounts payable for individual special pay factors, it is the Department's intention to use ranges established by the Department of Veterans Affairs whenever and wherever possible.):

SC543.8.1. Full-Time Status. A full-time physician or dentist occupying a covered position is eligible to receive special pay for full-time status. The amount of special pay for this factor is not negotiable nor may it be prorated for part-time service.

SC543.8.1.1. A full-time physician may receive \$9,000 a year.

SC543.8.1.2. A full-time dentist may receive \$3,500 a year.

SC543.8.2. Length of Service. A physician or dentist occupying a covered position who meets the length of service requirements established by the DASD(HSO&R) shall receive the annual rates described therein. Pay for this factor is limited to \$25,000 a year for a physician and \$4,000 a year for a dentist.

SC543.8.3. Scarce Specialty Pay may be paid to a physician or dentist occupying a covered position who is trained and experienced in a specialty for which the Department of Defense encounters EXTRAORDINARY recruitment and retention problems. Pay for this factor is limited to \$40,000 a year for a physician and \$20,000 a year for a dentist.

SC543.8.3.1. Scarce specialty pay may be established by the DASD(HSO&R) based on nationwide needs, or, as provided in paragraph SC543.5.3., above, based on the needs of a specific facility. Scarce specialty pay is appropriate only in situations when the maximum amount of geographic location pay, provided in paragraph SC543.8.6., below, is insufficient to resolve a staffing problem.

SC543.8.3.2. The DASD(HSO&R) will designate applicable nationwide scarce specialty ranges and will provide the criteria necessary to determine and

document that adequate recruitment and retention problems exist for payment of scarce specialty pay.

SC543.8.4. 38 U.S.C. 7433(b)(4) and 7435(b)(4) (reference (b)), will not be used in the Department of Defense.

SC543.8.5. Board Certification Pay. A physician or dentist occupying a covered position who is currently certified as having met the full requirements of the appropriate American specialty board (i.e., a specialty board that is a member of the American Board of Medical Specialties, a board recognized by the Advisory Board of Osteopathic Specialists, or recognized by the American Dental Association is acceptable for this purpose) for a specialty related to the Department's healthcare mission is eligible to receive board certification pay. The DASD(HSO&R) will review annually the applicable specialties to determine whether a specialty should be included with or excluded from those related to the accomplishment of the Department's healthcare mission.

SC543.8.5.1. A physician or dentist is eligible to receive \$2,000 a year for specialty or first board certification and \$500 a year for a related subspecialty or secondary board certification.

SC543.8.5.2. Information concerning the board certification status of a physician or dentist must be recorded on the service agreement. A physician or dentist must inform his or her supervisor of any change to such status as provided in paragraph SC543.7.4., above.

SC543.8.5.3. Payment of special pay for this factor is based on the record of board status and will be discontinued if the certification expires or is revoked.

SC543.8.6. Geographic Location Pay may be authorized for a physician or dentist who provides services in a specific category of position or specialty at a specific geographic location for which the designated approving official has determined there are EXTRAORDINARY problems recruiting and retaining qualified physicians. Pay for this factor is limited to \$17,000 a year for a physician and \$5,000 a year for a dentist. The DASD(HSO&R) will provide criteria for payment of geographic location pay.

SC543.8.7. Pay for Exceptional Qualifications within a specialty may be paid to a physician or dentist occupying a covered position who possesses exceptional or distinguishing qualifications in a specialty within a category of positions. Pay for this factor is limited to \$15,000 a year for a physician and \$5,000 a year for a dentist. The DASD(HSO&R) will provide criteria for authorizing special pay for exceptional qualifications within a specialty.